

NOVEMBER 5, 2007

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

07 C 6241

1200 ASHLAND, LLC, an Illinois)
limited liability company)
)
Plaintiff,)
)
vs.) Case No.
)
LAWYERS TITLE INSURANCE)
CORPORATION, a Nebraska corporation)
)
Defendant.)

**JUDGE MORAN
MAGISTRATE JUDGE NOLAN**

NOTICE OF REMOVAL

Defendant Lawyers Title Insurance Corporation ("Lawyers Title"), for the purpose only of removing this cause to the United States District Court for the Northern District of Illinois, Eastern Division and pursuant to 28 U.S.C. §§ 1441, 1446 and 1332, states:

1. State Court Action. This action was commenced by Plaintiff 1200 Ashland, LLC ("Plaintiff") on or about September 27, 2007, in the Circuit Court of Cook County, Illinois, County Department, Chancery Division ("State Court"), being numbered 2007 CH 27441 on the docket. Plaintiff has sued for a declaration of the parties' rights under a title insurance policy ("Policy") issued by Lawyers Title, along with damages caused by Lawyers Title's alleged breach of the Policy.

2. Diversity of Citizenship. Plaintiff is an Illinois limited liability company that has its principal office in Chicago, Illinois. Plaintiff's members, upon information and belief, are citizens of Illinois. As such, Plaintiff is treated as a citizen of Illinois for diversity purposes. *See Bellevill Catering Co. v. Champaign Mkt. Place, LLC*, 350 F.3d 691, 692 (7th Cir. 2003). On information and belief, Plaintiff was a citizen of Illinois at the time this action was filed and

remains so as of the date of removal. Lawyers Title is a Nebraska corporation,¹ with its principal place of business in Glen Allen, Virginia. Lawyers Title was therefore a citizen of Nebraska and Virginia at the time this action was filed and remains so at the time of this removal.

Accordingly, there is complete diversity of citizenship between Plaintiff and Lawyers Title. The amount in controversy also exceeds \$75,000, exclusive of interests and costs, insofar as Plaintiff has demanded that Lawyers Title reimburse it \$3,073,120 under the Policy for diminished value of the property with alleged defects, plus its attorneys' fees of \$10,000. (*See Sherman Dec.*, ¶ 3, Ex. A.) The Complaint also notes the amount of insurance available under the Policy is \$8,100,000.00. (Complaint ¶ 7.) This Court therefore has original jurisdiction pursuant to 28 U.S.C. § 1332, and this action may be removed by Lawyers Title pursuant to 28 U.S.C. § 1441. Venue is proper in this Court under 28 U.S.C. § 1391, as this action was pending in a state court within this district and division. Moreover, removal is timely under 28 U.S.C. § 1446(b) because summons and a copy of Plaintiff's Complaint was first served on Lawyers Title's registered agent on October 5, 2007. *See also Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 348 (1999) (removal period "is triggered by simultaneous service of the summons and complaint, or receipt of the complaint, 'through service or otherwise,' after and apart from service of the summons...").

3. State Court Documents Attached. Copies of all process, pleadings, and orders served upon Lawyers Title are filed with this Notice and attached hereto as Exhibit 2.

4. Notice. Lawyers Title will give written notice of the filing of this Notice as required by 28 U.S.C. § 1446(d). A copy of this Notice will be filed with the Clerk of the Circuit Court of Cook County, Illinois as required by 28 U.S.C. § 1446(d).

¹ Lawyers Title is erroneously identified as a Virginia corporation in Plaintiff's Verified Complaint for Declaratory Judgment and Other Relief ("Complaint"). It is a Nebraska corporation. *See Declaration of Sally A. Sherman*, ¶ 2, attached as Exhibit 1 (hereinafter "*Sherman Dec.*").

WHEREFORE, Defendant Lawyers Title Insurance Corporation respectfully requests removal of this action from the Circuit Court of Cook County, Illinois, County Department, Chancery Division, to the United States District Court for the Northern District of Illinois, Eastern Division and that this Court assume jurisdiction of this action, and that it issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof.

Dated: November 5, 2007

LAWYERS TITLE INSURANCE CORPORATION

By: /s/ Albert E. Fowerbaugh, Jr.
One of Its Attorneys

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CERTIFICATE OF SERVICE

I, Albert E. Fowerbaugh, Jr., certify that on November 5, 2007, I served a true copy of the preceding notice filed with the Court upon all counsel of record via the court's electronic filing system.

/s/ Albert E. Fowerbaugh, Jr.